

PRINCIPLES AND STANDARDS OF NEBRASKA JUDICIAL BRANCH EDUCATION

PREAMBLE

The Nebraska State Supreme Court has adopted these Principles and Standards of Continuing Judicial Branch Education, effective July 1, 2004, to provide a program of continuing judicial branch education for all judicial branch employees. For purposes of this document and its implementing rule, the term "judicial branch employee" is defined to include all appellate, district, separate juvenile, county court, and workers' compensation judges, as well as probation officers, clerk magistrates, supervisors, county court staff, official court reporters and stenographers, JUSTICE staff, and any other person whose primary duty is in the judicial branch of government.

Commentary:

The goal of continuing education is to maintain and improve the professional competency of all judicial branch employees, including court administrators and child support referees, thereby enhancing the performance of the judicial system as a whole. Nebraska will offer a comprehensive program of mandatory judicial branch education which has the following objectives:

- assisting judicial branch employees in acquiring the knowledge, skills, and attitudes required to perform their responsibilities fairly, correctly, and efficiently;
- promoting the highest standards of personal and official conduct for judicial branch employees;
- preserving the integrity and impartiality of the judicial system by developing programs preventing bias and prejudice, and the appearance of bias and prejudice;
- promoting effective court practices and procedures;
- improving the administration of justice; and
- enhancing public confidence in the judicial system.

PRINCIPLE 1: THE NEED FOR CONTINUING JUDICIAL BRANCH EDUCATION

Formal continuing education for trial and appellate court judges and judicial branch staff is essential for the judicial system to perform effectively.

Standard 1.1 Responsibility

The responsibility for continuing judicial branch education properly rests in the judiciary, under the leadership of the Chief Justice and Supreme Court.

Standard 1.2 Availability

Continuing education opportunities will be available to every judicial branch employee.

Standard 1.3 Integral Part of Judicial Branch Duties

Participation by judicial branch employees in continuing education activities is considered an integral component of professional duties and responsibilities.

Standard 1.4 Educational Leave

Judicial branch employees will be given adequate time to attend education activities.

Commentary:

- Individual professional responsibility includes a duty to attain, maintain, and acquire higher levels of competency.
 - (1) Neb. Code of Jud. Cond., Canon 3, for judges
 - (2) Neb. Rev. Stat. § 29-2247, district judges
 - (3) Neb. Rev. Stat. § 24-508, county judges
 - (4) Neb. Rev. Stat. § 24-508, clerk magistrates
 - (5) Neb. Rev. Stat. § 29-2252, probation officers
 - (6) Neb. Ct. R. of Official Ct. Rptrs. 15, official court reporters

- The responsibility for continuing judicial branch education should rest with the Chief Justice and a designated advisory committee which includes the judicial branch education director as a member. The committee's duties include development and review of standards and administrative rules addressing such issues as mandatory education, criteria for approval of qualified activities, reporting requirements, sanctions for noncompliance, exemptions, and confidentiality of records. Judicial branch education must receive the resources necessary to develop and manage the continuing education program and to provide judicial

branch employees with sufficient opportunities to attend education activities.

- Education is an integral component of judicial branch duties. The judicial branch recognizes its responsibility to provide opportunities for employees. Employees will be granted educational leave for participation in education programs.

PRINCIPLE 2: ORGANIZATION AND RESOURCES

Standard 2.1 Mission Statement

The Nebraska Judicial Branch Education Advisory Committee is dedicated to promoting excellence in the administration of justice through quality education.

Standard 2.2 Staff

Nebraska will have a full-time judicial branch education director, assisted by staff. The director is responsible for the management and administration of the education program under the supervision of the State Court Administrator.

Standard 2.3 Staff Development

Nebraska will provide its education staff with opportunities to maintain and improve their professional skills.

Standard 2.4 Nebraska Supreme Court Continuing Judicial Branch Education Advisory Committee

The Judicial Branch Education Advisory Committee shall be appointed in accordance with Nebraska Statutes and Supreme Court Judicial Branch Advisory Committee Rule A. Its duties shall be established through Judicial Branch Advisory Committee Rule B of the miscellaneous rules of the Nebraska Supreme Court.

Standard 2.5 Fairness

All education activities will support fairness to all persons regardless of race, religion, gender, age, disabilities, or ethnicity.

Standard 2.6 Adequate Resources

Nebraska's judicial branch education program will require appropriate resources to provide effective education over an extended period of time.

Commentary:

Appropriate resources include human, fiscal, and physical resources necessary to achieve the goals and objectives of the judicial branch. Long-term and appropriate resource allocation demonstrates commitment to maintaining and improving the career performance of the individual and the judicial system as a whole.

**PRINCIPLE 3: EDUCATION TO MEET CAREER NEEDS
OF JUDICIAL BRANCH EMPLOYEES**

Commencing with orientation, continuing education should meet the changing career needs of judicial branch employees.

Standard 3.1 Orientation

All employees shall have appropriate orientation at the commencement of their employment.

Commentary:

New judges, including experienced judges with new judicial assignments, must participate in a multifaceted orientation process which should include substantive instruction, written materials, and a mentoring process. New employees other than judges will participate in an orientation process which should include an overview of the judicial branch and the role of all employees in achieving the organization's goals.

Trial Judges

- The initial judge orientation should include such matters as the transition to the bench or assignment to a new bench, the Code of Judicial Conduct, fairness issues, the effective use of court staff and resources, court system management, case management techniques, overviews of substantive law, courtroom communication skills, demeanor, and community and media relations.
- New judges should receive written materials whose scope, content, and format are specifically designed to promote the orientation process. These materials should include such quick reference items as checklists, sample procedural language, forms, model instructions, and directories of support resources and agencies.
- The director will establish a mentoring program for each new judge. The mentor is the individual with the primary responsibility for assisting the new judge's appointment to the bench. Typical duties include offering advice and suggestions on ethical issues, providing opportunities for the new judge to conduct court, observing and critiquing the new judge, introducing the new judge to local court agencies and personnel, and providing support and

guidance as necessary.

- The orientation process may include sessions both before and after a new judge assumes the bench. Each judge will attend a new orientation course offered by a national provider after the judge has some experience on the bench. The exact nature of the course is to be determined by the JBE director in consultation with the JBE Advisory Board.

Appellate Judges

- Appellate judges are encouraged to attend existing orientation programs in a timely fashion.

Standard 3.2 Continuing Judicial Branch Education

Judges shall participate in continuing judicial branch education as required by Supreme Court Rule. All other employees shall attend continuing education as required by Nebraska Statute and Supreme Court Rule.

Commentary:

The director will develop, in consultation with existing education committees, programs to address ongoing educational needs of all judicial branch employees.

Standard 3.3 Curricula

Curricula will be developed for each employee group in consultation with education committees. Curricula should include:

- (1) technical skills
- (2) ethics
- (3) legal knowledge
- (4) personal development
- (5) contemporary issues

Commentary:

- Continuing judicial education will include at least the following topics within the five major areas enunciated:
 - (1) Legal Ability - Updates on substantive law, court rules, and court procedures; indepth analysis of complex legal issues; examination of judicial decisionmaking practices and philosophies; and effective opinion rendering through identification, analysis, and clarity in expressing legal issues, reasoning, and conclusions.
 - (2) Comportment and Demeanor - Review of the Code of Judicial Conduct, fostering fairness through the elimination of bias or prejudice, decisiveness, and judicial temperament.
 - (3) Judicial Management Skills - Instruction regarding case management; effective trial and jury management; settlement skills; personnel management; skills to cope with the growth of litigation and the increasing complexity of legal issues and proceedings; and, when appropriate, court system planning and administration.
 - (4) Contemporary and Interdisciplinary Issues - Updates on scientific and behavioral sciences relevant to any judicial practice, knowledge of contemporary social issues, and the law and the humanities.
 - (5) Personal Development - Revitalization and rededication to public service, awareness of the need to maintain high levels of personal well-being, and stress management.
- Continuing education for nonjudge judicial branch employees shall include topics pertaining to technical skills, demeanor and service to the public, contemporary issues, and personal development.

Standard 3.4 Regional and National Education

Judges and employees should have an opportunity to participate in regional and national programs in order to obtain a broader perspective on judicial functions and to share knowledge and skills with peers from other areas of the United States.

Commentary:

- Regional and national educational experiences are subject to receipt of adequate funding in accordance with the Supreme Court travel policy.

- When appropriate, Nebraska should jointly conduct regional education programs for judges and/or employees. Regional programs, and programs offered by national providers, should complement instate continuing judicial branch education efforts.

PRINCIPLE 4: USE OF ADULT EDUCATION METHODS

Continuing judicial branch education programming will involve the application of adult education methods to assess needs, design and implement curricula, and evaluate results.

Standard 4.1 Needs Assessment

Education is based on the periodic systematic assessment and analysis of the participants' learning needs, responsibilities, and performance.

Standard 4.2 Learning Objectives

Each education activity, and its related instructional materials, should have a clear and concise written statement of intended learning objectives and be specifically designed and implemented to achieve the objectives. Learning objectives should specify the performance level at which each participant is expected to express or demonstrate intended changes in knowledge, skills, or attitudes.

Standard 4.3 Learning Activities

Learning activities are designed to utilize a variety of adult education methods which promote active participation.

Standard 4.4 Learning Environment

The physical environment for continuing judicial branch education activities should be conducive to learning, appropriate for intended learning objectives, and should provide appropriate instructional aids and support services.

Standard 4.5 Evaluation

The evaluation method should determine whether the stated learning objectives and the expectations of the participants were achieved. Education activities will be evaluated during and after the activity.

PRINCIPLE 5: FACULTY

Faculty for continuing judicial branch education activities will be qualified by education or experience to effectively facilitate attaining the learning objectives.

Standard 5.1 Qualifications

Faculty must be able to plan and conduct education activities for adult learners. They should use adult education methods to provide a forum for participative learning.

Standard 5.2 Selection and Development

The core of continuing judicial branch education faculty is drawn from members of the judicial branch. Faculty development training is provided to all education faculty.

Standard 5.3 Educational and Instructional Leave

All personnel should make a special effort to serve as faculty when their services have been requested.

Commentary:

- In addition to knowledge and experience, faculty members should possess the following essential skills:
 - (1) fluency in verbal communication
 - (2) effectiveness in two-way communication
 - (3) adaptiveness and creativity
 - (4) competence in the use of adult education methods
- Opportunities to serve as faculty are open to all qualified individuals. Newer employees and those who have not participated in the past are urged to become faculty. Opportunities are rotated commensurate with experience, skills, training, and interests.

- Education faculty must commit the necessary time to participate in faculty development training and to prepare supporting written materials and audiovisual aids. Faculty should be supported and accommodated in their research, writing, and teaching as practicable.

PRINCIPLE 6: RESOURCE MATERIALS

The continuing judicial branch education organization will provide all judges and employees with educational resources to enable them to perform their judicial duties in a knowledgeable, effective, and efficient manner.

Standard 6.1 Written Materials

Judges and employees should receive well-researched written materials, including bench books, desk books, manuals, bench guides, and other publications which assist in performing their normal duties in a knowledgeable, effective, and correct manner.

Standard 6.2 Program Materials

Participants should receive well-researched written materials produced in conjunction with orientation, continuing education, and advanced/specialty programs as a method of attaining the learning objectives.

Standard 6.3 Lending Library

A lending library of written materials, audiotapes, and videotapes shall be maintained.

Commentary:

- Education materials will be the responsibility of the judicial branch education director, thereby promoting the coordination of education programs with education materials. Materials will be updated regularly. Separate committees will have responsibility for advising the development and maintenance of written materials. A standing committee could be established to advise and monitor ongoing publications such as bench books and manuals. The materials should be written by judges or persons with knowledge and experience in not only legal research but judicial branch practices and procedures. Written materials will include checklists, forms, and scripts for everyday use on the bench.
- A lending library will include education materials in addition to recent publications regarding any matters affecting employee responsibilities.

PRINCIPLE 7: ETHICS IN JUDICIAL BRANCH EDUCATION

Programming provided by Nebraska Judicial Branch Education must adhere to high ethical standards which enhance the credibility and reputation of its participants, and, as to educational programs for judges, must comply with the Nebraska Code of Judicial Conduct.

Standard 7.1 Scope and Applicability

The principles enunciated in the ethical policies established herein apply to all persons who are subject to the Nebraska Supreme Court Rules for Mandatory Judicial Branch Education, which became effective on July 1, 2004, and all subsequent amendments thereto.

Standard 7.2 Responsibility for Ethical Programming

It is the responsibility of the Judicial Branch Education Division of the Administrative Office of the Courts/Probation to conduct its sponsored programming in a fashion which complies with the Nebraska Code of Judicial Conduct, the opinions of the Judicial Ethics Committee, and these principles and standards. Questions regarding these standards, or the relevant canons and rules of the Nebraska Code of Judicial Conduct, may be submitted by the Director to the Judicial Branch Education Advisory Committee, and, as to educational programs for judges, to the Judicial Ethics Committee, for opinion.

Standard 7.3 Conduct of the Judicial Branch Education Office

The Director and staff of the Judicial Branch Education Division, in consultation with the Judicial Branch Education Advisory Committee and the Nebraska Supreme Court, shall have the authority and responsibility to develop appropriate curricula and to maintain control over programming agendas for programs sponsored by Nebraska Judicial Branch Education.

Judicial Branch Education programs will be scheduled at facilities which are appropriate for the educational goals and objectives of the curricula.

It is the responsibility of the Judicial Branch Education Director to arrange for appropriate meeting spaces for judicial branch education programs.

Contracts for Judicial Branch Education meeting facilities will be offered following an open bidding process. The successful bidder will be chosen based upon an overall assessment of the following criteria:

- (1) appropriateness of the facility to the educational goals and objectives of the program;

- (2) appropriateness of the facility to the group size, need, and characteristics;
- (3) consultation with the Nebraska Judicial Branch Education Advisory Committee, the education committee(s) of the affected employee group(s), and the Nebraska State Bar Association;
- (4) length of time since programming has been held in a particular facility or region of the state; and
- (5) cost of facility and available amenities.

During the planning stage of programs, the Judicial Branch Education Director and staff, in consultation with the State Court Administrator, shall be allowed to negotiate:

- (1) rates for sleeping rooms and meeting space, including discounts which vary from standard advertised rates;
- (2) complimentary rooms, facilities, meals, and amenities;
- (3) transportation rates to and from conference sites; and
- (4) speaker fees.

As a part of the planning stage of programs, the Judicial Branch Education Director and staff:

- (1) may utilize resources available through community tourism and event planning bureaus;
- (2) may accept complimentary meals (up to one breakfast, lunch, and dinner) at a property which has been identified as a finalist to host an upcoming meeting;
- (3) may accept a complimentary standard room for one night's stay at a property which has been identified as a finalist to host an upcoming meeting; and
- (4) may accept complimentary transportation to and from a property which has been identified as a finalist to host an upcoming meeting.

Under no circumstances shall the Judicial Branch Education Director and staff accept:

- (1) complimentary meals, rooms, or transportation which is not directly related to selecting sites for upcoming meetings; or

(2) cash payments or other personal inducements to influence the outcome of a meeting site search.

Standard 7.4 External Funding Sources

Funding sources for Nebraska Judicial Branch Education sponsored programming may include federal, state, and local governing agencies; public or private foundations; institutions of higher education; corporations; business entities; or private donors.

At an early stage in the process in which external funding is sought, the Judicial Branch Education Director shall consult with the Judicial Branch Education Advisory Committee about the solicitation and potential funding sources. If, as a result of this consultation, substantial ethical questions are raised as to the propriety of accepting funds from a particular funding source, such questions may be referred to the Nebraska Judicial Ethics Committee.

Upon request, an external funding source may have input into the programming agenda of the judicial branch education opportunity through consultation with the Judicial Branch Education Director; however, the Nebraska Judicial Branch Education Advisory Committee shall have ultimate authority to determine and develop curricula at its sponsored programs. Nebraska Judicial Branch Education shall in all cases provide an appropriately balanced agenda at its educational seminars. In cases where the external funding source is unwilling to accept the authority of Nebraska Judicial Branch Education to provide appropriately balanced programming and control of its program agendas, funds shall not be accepted from that source.

When external funds are accepted for Nebraska Judicial Branch Education programming, the source of the funds will be clearly identified in the promotional and programming materials.

Commentary:

- This section sets forth a mechanism for acquiring grant and other external funding for Nebraska Judicial Branch Education. Standard 7.4 provides wide latitude to seek external funding sources for use by Nebraska Judicial Branch Education.
- In order to avoid any perception that funding sources can have undue influence or access to judicial branch employees, this standard and its commentary provides that programming responsibility and agenda control rest with Nebraska Judicial Branch Education and not the funding agency. Potential ethical problems are limited by this principle and by the fact that when external funding is being sought, the Judicial Branch Education Advisory Committee's opinion and, if necessary, the Judicial Ethics

Committee's opinion will be sought. If there is any question about accepting funds after that point, other funding sources may be obtained.

- Standard 7.4 provides that external funding sources may consult with Nebraska Judicial Branch Education regarding the educational program to which it is contributing; however, Nebraska Judicial Branch Education retains primary control of its programming agendas. If an external funding source does not accept this condition, its funds will not be accepted.
- This standard also provides for full public disclosure of external funding sources. This will allow for any public comment to occur and will allow conference participants to know who is sponsoring the programming.
- The provisions of Standard 7.4 apply only to programs sponsored by Nebraska Judicial Branch Education. They do not apply to nonsponsored programs. The intent of funding limitations established by this standard is to ensure the delivery of objective, balanced programming for program participants and the avoidance of improper influence by funding sponsors.